

# FISCAL REVIEW COMMITTEE

## MINUTES

Monday, March 28, 2016

1:00 p.m.

Senate Committee Room F

State Capitol Building

### I. CALL TO ORDER

Mr. Daryl Purpera, Chairman of the Fiscal Review Committee (FRC), called the meeting to order at 1:05 p.m. and a quorum was present with the following members in attendance:

#### MEMBERS PRESENT:

Mr. Daryl G. Purpera, CPA, CFE  
Louisiana Legislative Auditor (LLA)

Mr. Ron Henson, First Assistant State Treasurer  
Designee for The Honorable John Kennedy, State Treasurer

Ms. Elizabeth Murrill, Director, Civil Division  
Designee for The Honorable Jeff Landry, Attorney General

### II. APPROVAL OF MINUTES

Mr. Henson made a motion to approve the minutes of the August 14, 2015, meeting. Ms. Murrill seconded the motion, and with no objections, the minutes were approved.

### III. UPDATE ON MADISON PARISH HOSPITAL SERVICE DISTRICT

Mr. Ted Topolewski, Chief Executive Officer (CEO) of Madison Parish Hospital Service District (District), provided an update on issues that confronted the District prior to when he became CEO in January 2015. The District had three disclaimers in a row, negative cash flow, spending out of control, public perception was negative, debts to the Office of Inspector General (OIG) and Centers for Medicare and Medicaid Services (CMS) with the U.S. Department of Health and Human Services for improperly filed claims, and lack of IT infrastructure which is necessary for good controls.

Mr. Topolewski said that Mr. Donald Frutiger was appointed as fiscal administrator nine months after he started as CEO. The District currently has \$6 million in the bank, paying bills within 30 days, approximately 45 days on receivables. They spent \$160 million on cable and software to update their IT. He hopes that the fiscal year end 2015 audit will have an unqualified opinion but that hinges on negotiations with OIG because of possible demands. The District's 2014 audit only had five findings compared to 34 findings in 2013. Unfortunately, the building is in poor condition and needs to be

replaced. Mr. Topolewski has engaged with the USDA in loan discussions and doing a feasibility study. The District has no long term debt and intends to purchase land.

Ms. Murrill asked if the District Board has the same members as before the fiscal administrator began. Mr. Topolewski responded that the commissions have no authority because the fiscal administrator supersedes all their authority such as signing the lease for a CAT Scan machine. Ms. Murrill asked if they have supervision and structure in place because the goal is to not need a fiscal administrator. Mr. Topolewski said that the USDA could require a fiscal administrator for several years because of concern if they return to the old management structure.

Mr. Purpera said they need to look into the legality of the USDA and OIG requiring a fiscal administrator. Mr. Topolewski shared his previous negotiations with the USDA stating that their intent is not to take the keys of the hospital. The hospital provides critical care and guaranteed Medicare, so public money would be better spent on a down payment on a new hospital building.

Mr. Henson asked about the \$2.1 million of bad debt and the exit plan for the fiscal administrator. Mr. Topolewski explained that the parish is one of the poorest in the state and bad debt is rampant. The state calls it a grant for the uncompensated care. Mr. Henson asked how many days before the uncollectable bad debts are written off. Mr. Topolewski said they send out collection letters and do all that they can but after 180 days the debts are written off.

Mr. Purpera explained the main issue that forced a fiscal administrator to be appointed was the potential that CMS would require reimbursement of \$20 million. Mr. Frutiger is still negotiating with CMS. Mr. Topolewski said that it took 1 ½ years to get CMS' attention, because not urgent for CMS or the OIG. Mr. Purpera said once this debt has been negotiated then the fiscal administrator can exit. Mr. Topolewski commended Mr. Frutiger's background as a former hospital CEO and extensive health care background.

#### **IV. TOWN OF ST. JOSEPH**

Mr. Purpera explained that the Town of St. Joseph (Town)'s auditors are having difficulties completing their fiscal year ended June 30, 2015, audit and the Town is on the noncompliance list which causes all state funding to be withheld including money designated in House Bill 1 (HB1). The Town's dirty drinking water is of great concern. The investigative audit issued by his office shows mismanagement of funds. This meeting is to consider if the Town's situation meets the definition for a fiscal administrator to be appointed.

Mr. Bradley Cryer, LLA Director of Local Government Services, stated that the Town's water system is only 12 years old but the Department of Health and Hospitals (DHH) determined from their site survey that it is not in good condition. The investigative audit was performed based on allegations of mismanagement by Tensas Parish residents. The Town's payroll taxes were paid late in 2012, 2013, and 2014, and the audit has several other findings for the three prior years. As of January 16, 2016, the Town was placed on the noncompliance list.

Mr. Purpera pointed out that the Town could have received the HB1 funding during the first six months of FYE 6/30/16 if they had been in a position to move forward. Mr. Cryer said the funding spent on the Town's water system from 2005 – 2014 was inadequate and experienced net losses since

2006 in spite of receiving grants every year. Providing clean water is a requirement for the Town as per Mr. Purpera. The committee further discussed the Town's inadequate funding to properly maintain the water system.

Dr. Jimmy Guidry, DHH State Health Officer, said he was notified of an EPA complaint in January 2016 filed with the White House, similar to the Flint, Michigan problems. He had actually surveyed the water system in December 2015, prior to receiving the EPA complaint. He found that the water filtration system was not working properly and that iron and manganese was in the water causing it to look brown. The 12 year old water plan was in disrepair and many leaks as well as old pipes were corroded. When the water was flushed the water looked even browner and very concerned that the water had been exposed. Dr. Guidry said a boil water notice was given for every repair until the system was purged. He was very concerned about the aging infrastructure, estimating it would cost \$8 million to replace old pipes. Approximately 600 homes also needed to be metered, and they are charging a flat rate so the town was losing money because of leaking water.

Dr. Guidry was concerned about chemical contamination because of numerous needed repairs. However, some pipelines are in the levee which was holding back flood waters in December hindering repairs to those pipes.

Ms. Murrill asked if any testing on the people had been done. Dr. Guidry explained that unless there is an outbreak because of E.coli or other health outbreak, they do not test people. Many are not drinking the water because of the color. However, manganese is in our diet so cannot definitely prove if from the water or food.

Mr. Henson asked if the color should be an issue since it appears the water system has many leaks. Dr. Guidry said the aesthetic quality because brown water will not make people sick. Tests do not show any primary contaminants but only secondary contaminants of iron and manganese. If DHH required treatment for brown water, the citizens would have to agree to pay extra and it might be cost prohibitive to get clear water.

Mr. Henson asked how a taxpayer could be expected to drink brown water. Dr. Guidry responded that people already complain of high water cost, and would like everyone to have clean water but not always possible. Ms. Murrill asked if the leaks in the pipes could be allowing contaminants in. Dr. Guidry said that the pressure keeps contaminants out; however, if it loses pressure then possibly. DHH does not have authority to shut down the water system for secondary contaminants. He did not see that the system was being maintained and currently the Town has no funds for replacement so it is just a matter of time before people begin getting sick. His concern is that if the water system is not repaired the Town will have an outbreak.

Mr. Bryan Hammett, engineer and owner of Bryan Hammett & Associates, L.L.C., stated that he was asked by Governor Edward's office to estimate the replacement cost for a similar water system. Mr. Hammett estimated that if the water system was working properly it would cost \$11,000 per month just for maintenance. If not run correctly and there is no longer a good system, the expense will be exponentially more to keep clean and maintain. Because of the many leaks in the pipes, they are wasting money. He said that Davis Cole Engineers did the preliminary design showing 559 meters but Louisiana Rural Water shows more than 700 meters.

Mr. Henson asked what the \$11,000 per month entails because currently pipes are corroded and many leaks. Mr. Hammett said that estimate is based on a sound pipe distribution system and treatment system which the Town has neither at this time.

Mayor Edward L. Brown testified that the water mains were installed in 1930 and very difficult to isolate parts of the Town when the main breaks because some spots are under three layers of asphalt. When the water system is flushed out they have brown water. They flush weekly and every time a main breaks. He said that his water is clear most of the time but does not drink it, and will only bath in it and cook with it because boiled. Mayor Brown said he has not drunk from tap water even when he lived Houston. He explained that the water plant works three times harder because of all the leaks and has to fix leaks every day. When the leaking pipes are under or close to the highway then he has to contact the Department of Transportation and Development.

Mr. Purpera said that he understood that almost 50% of the water is lost. Mayor Brown said they need additional customers to cover expenses to fix leaks. He said he wakes up without running water when the water main breaks.

Mr. Karl J. Koch, Town Attorney, said that the 90 year old pipes are the issue. He said that if brown water is the reason for appointing a fiscal administrator, then the committee will have to appoint many all across the state. This is a small town that cannot afford to fix the water system and needs a new distribution system. Mr. Karl stated that the financial audit for the previous year is almost complete and the Town had requested an extension. However, he does not believe that the Town meets the requirements to appoint a fiscal administrator and the Town is current on its bills.

Mr. Purpera stated that the mayor did not engage an auditor to perform the audit until six months after fiscal year end. Mayor Brown responded that he contacted 40 auditors trying to find one. Mr. Purpera said that the audit is due to his office six months after fiscal year end. Mayor Brown said he tried but auditors did not want to get involved because of the lawsuits with the Town of Newellton about the Joint Gas Operations.

Mr. Purpera pointed out that Mayor Brown could have received the Priority 1 funding available from June 30 – December 30, 2015, and the money was provided in the capital outlay bill for two years. Mayor Brown said that they did spend some money from Facility Planning which controls and approves the disbursements. Mr. Koch said that the mayor hired engineers to make plans and sent requests for funds to Facility Planning.

Mayor Brown restated that he sent out more than 45 requests for an auditor. Mr. Koch said the fastest track would be an extension. He said that the exit conference was done and expects the audit to be turned in soon. He spoke with the CPA and believes the Town can pay their bills.

Ms. Murrill suggested a third option to allow a fiscal administrator to be appointed to ensure the money is spent correctly. Mr. Koch did not see the basis for appointment of a fiscal administrator. He said that Facility Planning handles the money and makes the decisions. He said that he and the mayor welcome as many eyes as wanted to overview the spending but \$6 million will fix the leaks.

Mark Moses, Director of Facility Planning and Control, testified that his office provides oversight but does not hold the contracts. He reviews the process to be sure the town follows public bid laws.

When the entity meets the Cooperative Endeavor Agreement (CEA) terms, then the funds are provided to the entity. The Town hired a design professional not approved by Facility Planning. Mayor Brown said he spoke with Mr. Purpera the prior year as well as his Senator and Representative to get the project moving.

Mr. Moses said there was \$1.2 million in cash line in fiscal year 2015 and it was reauthorized in July 2015. Another \$6.6 million is in a Priority 5 non-cash line credit when the Town shows to be ready for it. The Town took \$300,000 - \$400,000 for planning expenses. The capital outlay bill for this year has not been posted yet. Mr. Henson asked for the scope of the water system replacement. Mr. Moses said there are several projects for replacement of lines and pipes and new distribution system.

Mayor Brown said the Town has half million dollar revenue without the water system. They budget \$300,000 in the water budget and receive \$249,446 in water revenue. They spent \$299,000 for the water system including payroll. Mr. Henson said that shows a deficit for the water expense. Mayor Brown said they also receive garbage fees and ad valorem taxes. He is responsible for all town operations and only he and the clerk manage the Town office.

Mr. Henson commented that being a small town mayor is a tough job but what is more important than providing clean water. Mayor Brown said he traveled across the country and met with Senator Mary Landrieu and had all worked out, then the politics changed. Mr. Henson said this gentleman needs help and if it takes a fiscal administrator to get it done, why not? Mr. Koch said the problem is not with the budget but the old pipes. Mr. Henson answered that the investigative audit says differently.

Mr. Purpera asked when the audit will be issued. Mayor Brown said it is expected by March 31<sup>st</sup>, and that the auditor claims to be sending weekly updates to the Legislative Auditor. He said that some of the things in the audit are not true, so he has to show the auditor corrections.

Mr. Purpera asked if the auditor will be issuing an opinion. Mr. Koch said in the exit conference it was an unmodified opinion. Mr. Purpera explained the various opinions: modified is good but a few problems; disclaimer of opinion is not an audit. As per LLA's policy, a disclaimer is not a real audit and the entity will still be in noncompliance. He pointed out the success in Madison Parish Hospital Service District turning around by using a fiscal administrator. He asked why the mayor would not allow a fiscal administrator to help the Town of St. Joseph.

Ms. Murrill stated that capital outlay does not last forever. She asked the mayor why he would not cooperate with a fiscal administrator and then Mr. Purpera can be assured that the Town is moving ahead properly and remove the Town from noncompliance. Mr. Koch commented that if it is an issue with administration and concern about how the \$6 million is spent, he is fine with oversight for that, but the town currently pays its bills so it does not qualify for fiscal administration. Ms. Murrill responded that there is concern with how money has been spent.

Mayor Brown said he relies on the engineering firm to follow state laws and he administers the funds. He is trying to get all fixed for the cheapest price.

Mr. Purpera said it takes money to properly maintain the water plant but the Town is unable to provide drinkable clean water. The statute regarding financial stability does apply because the Town does not pay withholding payroll taxes on time. This situation meets statutory appointment of a fiscal

administrator. He is also concerned about accountability and transparency as evidence in the investigative audit. For example, it was inappropriate for the mayor to prepare invoices for Mr. Conner. A safeguard is needed by appointing a fiscal administrator. Mayor Brown responded that Mr. Conner rented his truck to the Town because FEMA asked for a truck to haul from over 300 sites. Mayor Brown said he prepared invoices based on work done.

Mr. Purpera said the Town should release funds only when receive invoices from the contractor. Mayor Brown said he understands documentation but they need to see what happened. Mr. Purpera said the misuse and mismanagement shown through the investigative audit is part of the issue. The water system has not been maintained for the past 10 years.

Mr. Koch said the 90 year old iron pipes are rusted. One time capital expenditures do not justify fiscal administer laws.

Mr. Purpera said they need to see the audit and current finances. Mayor Brown said the exit conference was last Wednesday, and he received additional questions from the auditor that he will respond to by the next evening. He is not sure after the auditor receives the additional information, how long before the audit will be finished.

Mr. Purpera suggesting tabling this subject and return after the audit is complete in approximately 30 days. Mr. Henson asked what can they expect different in 30 days. Mayor Brown said the leaks are continually being repaired but when the river goes up it causes the main to bust, and there is only brown water when there is a bust and the lines are flushed. Mr. Henson said he did not suggest that the mayor has not done what he can, but also asked what will change in the next 30 days.

Mayor Brown said he would work with the auditor to get a good audit. Mr. Koch said they are open to discussion on how the \$6 million can flow to the Town. Mr. Henson said just the \$6 million will not fix the problems, but need a fiscal plan to maintain the water system.

Mayor Brown informed the committee that the EPA is going to evaluate the water plant on April 4 to determine if it can be repaired or needs to be replaced. This was recommended by Dr. Guidry because must be sure that the water source is providing clean water. He said it could be as simple as changing the water filters. Also if the federal EPA makes recommendations there could be money provided from grants. Mr. Koch said that \$6 million would cover all the expenses.

Mr. Henson asked if the Town could hire a Chief Financial Officer (CFO). Mayor Brown said that he hired a contracted CPA to help with separation of duties, but does not have the staff or funds to hire a CFO. Mr. Henson asked if he would work with a fiscal administrator if appointed. Mayor Brown asked if the town has to pay for the fiscal administrator, and Mr. Henson responded yes. Ms. Murrill commented that if he does not have adequate staff and no money to pay the bills then he could pay for a CPA or a fiscal administrator. Mayor Brown said he does not need someone there every day. Ms. Murrill said the situation is a ticking time bomb and the best path is to appoint a fiscal administrator.

Mr. Koch said that a statutory fiscal administrator takes over running the town and that is not necessary, and need assistance more limited in scope.

Mr. Henson asked to bring the Town back in a month. Mr. Purpera stated that this issue would be tabled for now, but meet again within 30 days. By then the audit should be complete and the committee will then decide if necessary to appoint a fiscal administrator.

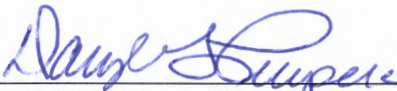
**V. OTHER BUSINESS**

No other business was discussed.

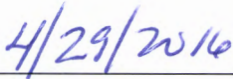
**VI. ADJOURNMENT**

Mr. Henson made a motion to adjourn and with no objection the meeting of the Fiscal Review Committee adjourned at 3:15 p.m.

Respectfully submitted,



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Daryl G. Purpera, CPA, CFE, Legislative Auditor  
Chairman



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Date